

From: Helmut Kurt Burri
To: Microsoft ATR
Date: 1/27/02 5:00am
Subject: Microsoft Settlement

To Judge Colleen Kollar-Kotelly

I write to you on the subject of the the United States' civil anti-trust case against the Microsoft Corporation. As you know, on November 6 2001, the United States Department of Justice and Microsoft filed a proposed settlement.

This settlement was not aimed to find remedies for Microsoft infringements of Sections 1 and 2 of the Sherman Act. Rather it is a short term political and economical decision made by number of U.S. states. The decision to settle was not based on having found suitable remedies, that would stimulate innovation and competition in the computer industry nor to deprive Microsoft of its illegal gains.

It was sadly driven by a conservative administration in the White House, with strong ties to corporate lobby groups. Microsoft was the second largest campaign donor the last election, giving \$4.3 million to both parties, the largest share of this amount going to the Republicans. It now seems that Microsoft's stratagem has successfully divided the coalition of states and may have even bought the submission of the U.S. president to its will. The decision to settle well short of suitable remedies was also taken by states seeing that in slower economic times, their constituents may not look favorably upon a continued and expensive legal battle. Even if the possible long term economic benefits would out-weigh the cost of continued litigation in the immediate future.

The facts have been laid down by District Judge Thomas Penfield Jackson in his final judgment. That Microsoft violated the Sherman Act, the nation's anti-trust law, through the use of its monopoly on the Windows personal computer operating system to stifle competition. Microsoft in so doing extended its reach into new areas as in the case of the Netscape Browser.

This is a practice Microsoft continues to engage in with its latest update to its monopoly product called WindowsXP, by "bundling" Windows Media Player with it. This tactic is aimed at Windows Media Player's competitors; Real Player by Real Networks and QuickTime by Apple Computers. These two products are the current leaders in digital movie streaming.

MSN Messenger is another product which is now also bundled on all WindowsXP operating systems and all copies of Microsoft OfficeX for Apple Mac OSX operating system. This results in MSN Messenger unfairly competing with AOL's instant messenger application. The detrimental effect on consumer choice by such actions is something I am sure you are

aware of.

Microsoft continues to engage in practices which have been the focus of the anti-trust action brought upon them and subsequently found guilty of. It has shown that it has no intent at regulating its own actions, let alone ever admitting any form of guilt. Microsoft at times displays an arrogant annoyance that any one ever challenges their might and its innate right to do as it sees fit. This is regardless of good moral and ethical business practices and the law under which it must perform it's business.

Microsoft has often been described as an amoral organization, that will not seek to rectify the error of its ways. It will not heed unless you utilize the power invested in you, given to you by the citizens of the United States. I thus ask that you carefully consider the objections of the nine outstanding states and find stronger remedies that will accomplish the goals, as they were set out in the U.S. Court of Appeals:-

- (1) to prohibit the illegal conduct and similar conduct in the future,
- (2) to spark competition in the computer industry.
- (3) to deprive Microsoft of its illegal gains.

All of this should be resolved as quickly as possible in the public's best interest as well as to prevent Microsoft further crippling of the computer hardware and software industry.

I sympathize with your position You are faced with decisions that will have momentous consequence for decades to come. You will define the world that you and I will live in and that our grand children will seek, to enjoy the same freedoms that we should never take for granted, for fear of losing these very freedoms.

Yours Truly

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